

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

TRUSSWAY, LTD. §
Plaintiff §
§
§
§
v. § CIVIL ACTION NO. _____
§
AJM FRAMERS, INC., JOHN WIGGS, §
AND CONSTRUCTION RESOURCE §
SERVICES, INC. §
Defendants §

NOTICE OF REMOVAL

Defendant JOHN WIGGS files this Notice of Removal under 28 U.S.C. §1446(a), respectfully shows the Court as follows:

A. Removal is Timely and is Made with the Consent of all Defendants

1. On January 9, 2006, Defendant Wiggs was served with Plaintiff's First Amended Original Petition in an action commenced in the 270th District Court of Harris County, Texas, styled "Trussway, Ltd. v. AJM Framers, Inc.," Cause No. 2005-76832 (the "State Court Action"). This Notice of Removal has been filed within thirty (30) days after service on Defendant Wiggs of Plaintiff's amended pleading setting forth the claim for relief upon which this action is based, as required by 28 U.S.C. §1446(b), and within thirty (30) days of service upon any defendant.

2. Wiggs understands that he was the first Defendant to have been served with process in the State Court Action.

B. All Defendants Join in this Removal

3. As evidenced by the January 19, 2006 letters attached as Exhibits "A" and "B"

AJM Framers, Inc. and Construction Resource Services, Inc., the other defendants in this matter, consent to and join in this removal.

C. This Court has Jurisdiction

4. This Court has original jurisdiction of this case under 28 U.S.C. §1331 because the matter in controversy involves a civil action arising under the Constitution, laws, or treaties of the United States. Specifically, Plaintiff asserts a claim under the Lanham Act, 15 U.S.C. §1114.

5. This Court also has supplemental jurisdiction over all other claims pursuant to 28 U.S.C. §1337.

D. Removal to the District and Division Proper

6. The Southern District of Texas, Houston Division, is the United States District Court embracing the place where the State Court Action is pending: the 270th District Court of Harris County, Texas. Removal to this District and Division is proper pursuant to 28 U.S.C. §1441(a) and 28 U.S.C. §124.

E. Attachments.

7. Pursuant to 28 U.S.C. §1446(a) and/or Local Rule 81¹, Defendant Wiggs attaches to this removal the following:

Exhibit A Defendant AJM Framers, Inc.'s January 19, 2006 Consent to and Joinder in Removal;

¹Wiggs has made a good faith effort to comply with Local Rule 81 by requesting such information from the state court clerk.

- Exhibit B Defendant Construction Resource Services, Inc.'s January 19, 2006
Consent to and Joinder in Removal;
- Exhibit 1 Plaintiff's Original Petition, Application for Temporary Restraining
Order, and Application for Temporary Injunction;
- Exhibit 2 Plaintiff's First Amended Original Petition;
- Exhibit 3 Defendant AJM Framers, Inc.'s Original Answer;
- Exhibit 4 Defendant Wiggs' Original Answer;
- Exhibit 5 A list of all counsel of record with appropriate contact information; and
- Exhibit 6 An index of exhibits

Wiggs was unable to obtain copies, if any, of everything otherwise required by Local Rule 81. He has requested copies of any executed process, orders by the state court judge, and the state court docket sheet, and will file them with this Court promptly upon receipt.

Respectfully submitted,

DOW GOLUB BERG & BEVERLY, LLP

By: /s/ Andrew S. Golub
Andrew S. Golub
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ATTORNEYS FOR DEFENDANT,
JOHN WIGGS

CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2006, a true and correct copy of the foregoing was sent via certified mail, return receipt requested, as follows:

Martyn B. Hill
Michael A. Harris
PAGEL, DAVIS & HILL, P.C.
1415 Louisiana, 22nd Floor
Houston, Texas 77002

Earle S. Lilly
PIRO, LILLY & COLE
1400 Post Oak Blvd., Suite 600
Houston, Texas 77056

/s/ Andrew S. Golub
Andrew S. Golub

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